

C-2997-21-A  
CAUSE NO.: \_\_\_\_\_

MARIA YOLANDA MARTINEZ	§	IN THE ____ JUDICIAL DISTRICT
	§	
	§	
VS.	§	COURT OF
	§	
CINTAS COPORATION NO. 2 AND	§	
WAL-MART STORES TEXAS LLC	§	HIDALGO COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES MARIA YOLANDA MARTINEZ, hereinafter referred to as Plaintiff, and files this, her Original Petition against CINTAS CORPORATION NO. 2 and WAL-MART STORES TEXAS LLC, hereinafter referred to as Defendants, and for cause of action will show the Court the following:

DISCOVERY CONTROL PLAN - BY RULE (LEVEL 3)

1. Plaintiff intends to conduct discovery under Level 3 as provided by Rule 190 of the Texas Rules of Civil Procedure.

CLAIM FOR RELIEF

2. Plaintiff is seeking monetary relief from Defendants in an amount that is more than \$1,000,000.00.

PARTIES

3. Plaintiff Maria Yolanda Martinez is an individual who resides in Mission, Hidalgo County, Texas.

4. Defendant Cintas Corporation No. 2 (**Cintas**) is a duly licensed corporation that does business in Hidalgo County, Texas. Its principal place of business in Texas is at 10801 Kempwood Drive Suite 4, Houston, Texas 77043 and/or 700 Dawson Road, Mercedes, Texas

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78573. Defendant Cintas Corporation No. 2 may be served with process by serving its registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, at 211 East 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701.

5. Defendant Wal-Mart Stores Texas LLC (**Walmart**) is a duly licensed limited liability company in Texas. Defendant Wal-Mart Stores Texas LLC may be served with process by serving its registered agent, C.T. Corporation System, at 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

**VENUE AND JURISDICTION**

6. The incident described hereinbelow or events giving rise to Plaintiff's claim against Defendant arose in Mission, Hidalgo County, Texas. Venue for this cause of action therefore lies in Hidalgo County, Texas.

7. The damages that Plaintiff is seeking from Defendant are within the jurisdictional limits of the Court. This Court therefore has jurisdiction of this cause of action.

**FACTS**

8. On April 21, 2021, at approximately 3:30 p.m., Plaintiff was at Walmart's fuel station located at 1006 Bryan Road in Mission Hidalgo County, Texas for business purposes. The fuel station is part of the Walmart Neighborhood Market located at said address. As Plaintiff walked toward the doorway in the fuel station, she tripped, fell, hit her head on the frame of the doorway, and landed hard on the floor. When Plaintiff tripped and fell, she suffered a serious head injury, among other injuries and damages, and defecated. A Cintas mat was improperly positioned on the floor away from the doorway and was flipped over. The mat was flimsy, thin, and light in weight and had a propensity to move, slide, and flip over (**the flimsy mat**) while on the floor. Further, the flimsy mat was not adhered or secured to the floor with adhesive or some other product, material, or device that would have secured the flimsy mat to the floor and prevented it from moving, sliding, and flipping over. The flimsy mat on the floor

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in the fuel station, as described herein, was a dangerous condition on the premises that caused Plaintiff to trip, fall, and suffer injuries and damages. Defendants created the dangerous condition on the premises that caused Plaintiff to trip, fall, and suffer injuries and damages by delivering the flimsy mat to the fuel station to be placed on the floor, placing the flimsy mat on the floor in the fuel station in an unsecured manner and/or allowing the mat to be placed on the floor in the fuel station in an unsecured manner. Knowledge of the dangerous condition is therefore imputed on Defendants under Texas Premises Liability Law.

9. The fuel station was a small and cramped store that had too many display racks, coolers, and items for sale, and had limited and insufficient walking spaces. The checkout counter in the fuel station was very close to the flimsy mat that was on the floor in an unsecured manner. The flimsy mat existed on the floor in its dangerous condition for a long period of time before it caused Plaintiff to trip and fall. Walmart's employees who were working in the cramped fuel station behind the checkout counter were in very close proximity to the dangerous mat that was on the floor during this lengthy period of time. After Plaintiff tripped and fell, Walmart's employees failed to provide Plaintiff with assistance. Other customers who were in the fuel station helped Plaintiff get up from the floor and told the employees to assist Plaintiff and position the dangerous mat on the floor in a safe manner.

**CAUSE OF ACTION AGAINST DEFENDANTS BASED ON  
PREMISES LIABILITY LAW AND PROXIMATE CAUSE**

10. At the time that is material to the incident described hereinabove and this case, Defendants were negligent under premises liability law in that: A. Plaintiff was a business invitee, B. Defendants owned, possessed, and/or controlled the fuel station premises where the incident described hereinabove occurred, C. A condition on the premises, the flimsy mat that was on the floor, flipped over, and unsecured to the floor, as described in the preceding paragraph, posed an unreasonable risk of harm, D. Defendants knew or reasonably should have known of the danger posed by the condition, and E. Defendants breached their duties of

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ordinary care by failing to adequately warn Plaintiff of the condition and failing to make the condition reasonably safe. This negligence by Defendants was the sole proximate cause or a proximate cause of the incident described hereinabove and of the injuries and damages suffered by Plaintiff, as set out hereinbelow.

ALTERNATIVE CAUSE OF ACTION AGAINST CINTAS BASED ON  
COMMON LAW NEGLIGENCE AND PROXIMATE CAUSE

11. At the time material to the incident described hereinabove and this case, Cintas was negligent in the following particulars:

- A. In in selling the flimsy mat to Walmart and delivering the flimsy mat to the fuel station for use on the floor of the fuel station, as a person or corporation of ordinary produce would not have done under the same or similar circumstances,
- B. In failing to secure the mat to the floor in the fuel station, as person or corporation of ordinary prudence would have done under the same or similar circumstances, and/or
- C. In allowing Plaintiff to come in contact with and trip on the flimsy mat that was on the floor in the fuel station in an unsecured manner, as person or corporation of ordinary prudence would not have done under the same or similar circumstances.

These acts and/or omissions by Cintas, taken either singularly or in combination, one with other or others, constitute negligence, which negligence was the sole proximate cause or a proximate cause of the incident described hereinabove and of the injuries and damages suffered by Plaintiff, as described herein.

DAMAGES

12. As a proximate cause of the negligence of Defendants in causing the incident described hereinabove, Plaintiff suffered injuries, suffered physical pain and mental anguish in the past, will suffer physical pain and mental anguish in the future, suffered physical impairment in the past, will suffer physical impairment in the future, suffered physical

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disfigurement in the past, will suffer physical disfigurement in the future, incurred medical expenses in the past, will incur medical expenses in the future, lost wages in the past, and will incur a loss of earning capacity in the future. Plaintiff is seeking monetary relief from Defendant in an amount that is more than \$1,000,000.00, as compensation for her damages.

**VICARIOUS LIABILITY**

13. At the time that is material to the incident described hereinabove and this case, Defendants' employees, contractors, and agents, including Cintas as it applies to Walmart, acted within the course, scope, and authority of their employment, contractual, and/or agency relationships with Defendant. Defendant should therefore be held vicariously liable to Plaintiff for all of Plaintiff's damages alleged herein.

**JOINT AND SEVERAL LIABILITY**

14. Plaintiff requests that Defendants be held jointly and severally liable to Plaintiff for all Plaintiff's damages alleged herein.

**PREJUDGMENT AND POSTJUDGMENT INTEREST**

15. Plaintiff further sues Defendants herein for prejudgment interest at the maximum rate allowed by law on those damages where such interest may be assessed and for postjudgment interest at the maximum rate allowed by law on all of Plaintiff's damages from the date of judgment until the judgment is paid in full.

**REQUEST FOR JURY AND JURY FEE**

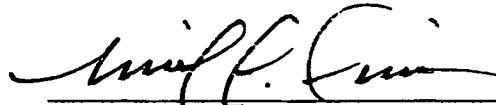
16. Plaintiff requests that the above-styled and numbered cause be tried to a jury and represents to the Court that the proper jury fee has been paid to the Clerk of this Court with the filing of Plaintiff's Original Petition.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that upon final hearing, she have judgment against Defendants for all of her damages hereinabove alleged, for prejudgment and postjudgment interest, and for any and all other relief, both general and special, in law and in equity, and for all costs of Court in her behalf expended.

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Respectfully Submitted,

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